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**MAR 03 2006**

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and Related Litigation

† Also admitted in Idaho

‡ Also admitted in N.Y. & D.C.

**FACSIMILE**

TO: U.S. Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: Randall B. Bateman

DATE: March 3, 2006

SUBJECT: Interview Request Form

SERIAL NO.: 10/602,547

ATTY. DOCKET NO.: 2280.ACTI.NP

NO. OF PAGES  
TO FOLLOW: 14

REMARKS:

Please see attached.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

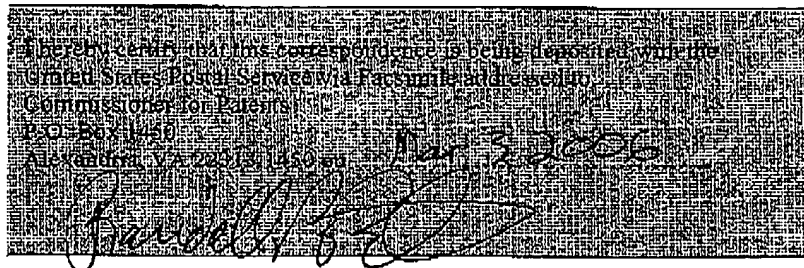
In re application of: Kyle Bateman  
Serial Number: 10/602,547  
Filed: 06/24/2003  
Art Unit: 3641  
Examiner: Troy Chambers  
For: Modular Ballistic Wall  
Attorney Docket: 2280.ACT1.NP

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INTERVIEW REQUEST FORM

Attached please find an interview request form for scheduling a telephonic interview with Examiner Chambers and Supervisor Carone.

Sincerely,

BATEMAN IP LAW GROUP

A large, stylized handwritten signature in black ink, which appears to be "Randall B. Bateman".

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### Applicant Initiated Interview Request Form

Application No.: 10/602,547 First Named Applicant: KYLE BATEMAN  
Examiner: CHAMBERS Art Unit: 3641 Status of Application: \_\_\_\_\_

#### Tentative Participants:

(1) TROY CHAMBERS (2) MICHAEL CARONE  
(3) RANDALL BATEMAN (4) \_\_\_\_\_

Proposed Date of Interview: 03-07-06 Proposed Time: 1:00 (AM/PM) PM

#### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☒ YES ☐ NO

If yes, provide brief description: ENCLOSED FIGURES AND ARGUMENTS

### Issues To Be Discussed

| Issues<br>(Rej., Obj., etc)                          | Claims/<br>Fig. #s | Prior<br>Art | Discussed                | Agreed                   | Not Agreed               |
|--|--------------------|--------------|--------------------------|--------------------------|--------------------------|
| (1) <u>See attached sheets</u>                       | _____              | _____        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) _____  | _____              | _____        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) _____  | _____              | _____        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) _____  | _____              | _____        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Continuation Sheet Attached |                    |              |                          |                          |                          |

#### Brief Description of Arguments to be Presented:

PLEASE SEE ATTACHED ARGUMENTS

An interview was conducted on the above-identified application on \_\_\_\_\_.

**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Randall B. Bateman  
Applicant/Applicant's Representative Signature

\_\_\_\_\_  
Examiner/SPE Signature

\_\_\_\_\_  
Typed/Printed Name of Applicant or Representative

\_\_\_\_\_  
Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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APPLICANT: Kyle Bateman, et al.  
SERIAL NO.: 10/602,547  
FILED: June 24, 2003  
FOR: MODULAR BALLISTIC WALL  
ART UNIT: 3641  
EXAMINER: Troy Chambers  
DOCKET NO.: 2280.ACT1.NP

**POINTS FOR DISCUSSION DURING TELEPHONIC INTERVIEW 3/7/2006**

The Examiner's analysis repeatedly misstates the record.

1. FIG. 3 as amended is the same as FIG. 3 as filed and as shown in the provisional. The examiner's assertion that FIG. 3 was submitted as having a space between the two plates is simply false. See FIG. 3 in both the provisional and as filed in this case. There is no space. Applicant submits, however, that whether there is a space or not is irrelevant. In fact, thermal expansion of the plates will cause the plates to touch or not touch if there are sufficient variations in temperature.

2. FIG. 1 shows a space between the plates in the provisional and the present case as filed because it is a disassembled view. (See paragraph 0032). Contrary to the Examiner's statement, FIG. 1 is never shown without a space, because the plates are not attached to one another.

3. A small space between the plates is shown in FIG. 2, in the formal drawings, the original drawings and the provisional application. The existence or nonexistence of a space is not relevant. The interface is referred to as a seam whether there is a space or not. Whether there is a space or not will depend on the width between the holes in the facing strip and backing strip. Applicant has clearly disclosed joints both with spaces and without spaces between the metal plates. Both are discussed in the specification as being seams. Nothing in the specification suggests that having the plate touch or be spaced a small distance apart provides any criticality. If the examiner is aware of a term which better describes the interface between the plates (both touching and spaced), Applicant is happy to discuss the same.

4. A space is also shown between the plates in FIG. 7 and FIG. 8B. With reference to the space between the plates, it is specifically described in paragraph 0066.

5. Claims requiring a seam must be entitled to the filing date of the provisional, because they are expressly set forth in the provisional.

6. The Examiner stated that the litigation between Action Target and Porta Target requires seam to be read to exclude a space. To the contrary 5,822,936 discusses a seam between the plates (see Abstract and claims 8 and 13) and only shows configurations where there was a space between the plates. The Court of Appeals for the Federal Circuit affirmed non-infringement on the part of Porta Target, which plates in a touching configuration.

7. The Examiner asserts that claim 21 is not shown in FIG. 3, while applicant respectfully disagrees, Applicant suggests the following amendment to claim 21 to resolve any ambiguity.

21. A modular ballistic wall comprising;  
a first piece of steel plate;  
a second piece of steel plate disposed adjacent the first piece of steel plate so as to form a seam;  
a facing strip disposed so as to cover the seam on one side of the first piece of steel plate and the second piece of steel plate;  
a backing strip disposed so as to cover the seam on a side of the first piece of steel plate and the second piece of steel plate opposite the facing strip;  
~~wherein at least one of the facing strip and the backing strip has~~ at least one arm extending away from the first piece of steel plate and the second piece of steel plate; and  
a bullet containment frame attached to the at least one arm.

8. The Examiner asserts that FIG. 3 does not disclose a plurality of sheets of material for inhibiting ricochets as set forth in Claim 50. FIG. 3 shows two sheets each labeled 172. The sheet abut against one another at the center of the two-by-four 164, and a screw 176 is placed near the lateral edge of each board. Not only does FIG. 3 show a plurality of boards, but it is described as such in paragraph 0042 of the specification (see the repeated references to boards).

9. The Examiner has indicated that FIG. 3 does not read on claim 1-7 because the key hole is not shown in FIG. 3. The metal plate 104 is taught as having key holes. See paragraph 0036. It will be appreciated that the shape and structure of a key hole cannot be readily seen. Furthermore, FIG. 3 is indicated to be similar to FIG. 2, and thus FIGs. 1 and 1A, except for the added structures. Paragraph 0023 states:

[0023] FIG. 3 shows a cross-sectional view of a joint similar to that shown in

FIG. 2, but with an alternate embodiment of an attachment mechanism for the bullet containment frame and the ballistic wall;

10. Applicant has enclosed proposed drawings to make the drawings consistent with the drawings filed in the provisional case and in the present case, as well as to make minor amendments to make the figures consistent with the specification.

In FIG. 1, lines have been added to show the connection with the bolts. Applicant submits that one of skill in the art would appreciate that the bolts extend through the holes as shown with the lines.

In FIG. 4, numbers 104 and 106 have been added to be consistent with the discussion in paragraph 0049. Number 160 has been amended to 160' to be consistent with paragraph 0049 and the juncture line between plates 104 and 105 has been added.

In FIG. 6, the juncture line between plates 254 and 258 has been added.

In FIG. 7, the space between the bolts is shown as drawn in the original drawings.

In FIG. 8a, the references to the plywood and furring has been removed.

In FIG. 8b, the reference to 480' has been added consistent with the original drawings.

In FIG. 8c, 500 has been moved to be consistent with the original drawings.

In Fig. 8d, 628 has been added consistent with the original drawings